

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Devon Industrial Group, LLC, *et al.*,

Plaintiffs,

v.

Case No. 11-cv-10313

Demrex Industrial Services, Inc., *et al.*,

Honorable Sean F. Cox

Defendants.

ORDER

DISMISSING WITHOUT PREJUDICE PLAINTIFF DEVON'S COMPLAINT (AS AMENDED) AS AGAINST DEFENDANT JASON GOLDBERG

On December 18, 2012, this Court entered a Show Cause Order directing Plaintiffs Devon Industrial Group, LLC, and Ford Motor Company to show cause in writing on or before **January 18, 2013**, why this Court should not issue an order dismissing Defendant Jason Goldberg for failure to prosecute. (Docket No. 201.)

On January 8, 2013, Plaintiff Devon Industrial Group, LLC, responded as follows: “WHEREFORE, in response to the show cause order by this Court, Plaintiff Devon prays that this Court dismiss the Complaint (as amended) by Devon against Defendant Goldberg **without prejudice**” (Docket No. 203, at 4.)

On January 15, 2013, Plaintiff Ford Motor Company responded as follows:

1. Ford filed its claims against Goldberg on February 16, 2012 and served him by personal service upon Marcella Goldberg, his wife, on March 6, 2012. On May 23, 2012 Ford took a default against Goldberg after he failed to appear, plead or otherwise defend, pursuant to Fed. R. Civ. P. 12(a). (Dkts. 1, 7, & 20 of Case No. 12-cv-10717, which was consolidated with this matter on June 5, 2012.)

2. Among the claims against Goldberg, on which he defaulted, were

claims of conversion, alter ego, and aiding and abetting conversion.

3. After the default, Ford continued to prosecute its claims against the remaining defendants herein, with the intent of obtaining judgment against them, and including Goldberg in such judgment.

4. Ford has now agreed to resolve its claims against Demrex Industrial Services, Inc., Altchem Environmental Services, Inc. and Barry Portnoy, while maintaining its claims against Goldberg.

5. Ford is moving for entry of a default judgment against Goldberg as a result of his default.

(Docket No. 205, at 1–2, ¶¶ 1–5.)

After reviewing the docket in this matter and in the companion case mentioned above, this Court is satisfied with Devon’s and Ford’s responses to the Show Cause Order.

IT IS ORDERED that this Court **DISMISSES WITHOUT PREJUDICE** Devon’s Complaint (as amended) as against Defendant Goldberg only. Ford’s claims against Defendant Jason Goldberg are not affected by this Order.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: February 6, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 6, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy
Case Manager